

## **REMARKS**

[0003] Applicant respectfully requests reconsideration and allowance of all of the claims of the application. The status of the claims is as follows:

- Claims 1, 2, 4, 5, 7-9, 11-18, 20-26, 28, 30-35, 37-41, 44, 45, 47-62, 64-68, 70-79, 82-87, 89 and 90 are currently pending
- No claims are amended herein

## **Cited Documents**

[0004] The following documents have been applied to reject one or more claims of the Application:

- **Deutscher:** Deutscher, U.S. Patent Application Publication No. 20040001106
- **Lamkin:** Lamkin, U.S. Patent Application Publication No. 20040220926

## **Request for Withdrawal of Finality**

[0005] In accordance with MPEP 706.07(d), Applicant submits that the final rejection is premature. Applicant formally asks that the Examiner reconsider finality of the rejections in this Action. Applicant submits that the Examiner should withdraw finality at least because 1) the cited document, Lamkin, does not predate the application, and 2) the Office has not addressed specific claimed aspects that Applicant has indicated differ from the cited documents, thereby denying Applicant the right to adequately respond.

Effective Date of Lamkin

[0006] Lamkin, filed on June 2, 2004 does not predate the instant application filed on February 19, 2004. Lamkin claims priority as a continuation in part of 15 documents. Applicant's representative has reviewed each of the priority documents and has not located disclosure in any of the priority documents equivalent to paragraph [0387] of Lamkin. Thus Applicant respectfully asserts that none of the various priority documents have been shown to provide the disclosure relied upon from Lamkin, e.g., paragraph [0387]. Accordingly, Applicant's representative respectfully requests that the rejections based on Lamkin be withdrawn, and if the next action is not a notice of allowance, that such action be non-final.

Applicant's Right to Adequately Respond

[0007] With few exceptions, the Office provides little to no explanation as to how the components of the cited reference correspond to the actual claim language. Furthermore, the Office provides little or no explanation as to how the operation of components of the cited reference corresponds to that of the actual claim language.

[0008] Since the Office has provided little or no reasoning for its rejections, Applicant can do little more than gainsay. Applicant is forced to make assumptions as to the Examiner's specific reasoning. Therefore, Applicant submits that by not addressing the actual claim language, the Office is denying Applicant the right to adequately and effectively respond to the Office's rejections.

[0009] Recently the Federal Circuit explained the following regarding agency decision making.

The Administrative Procedure Act, which governs the proceedings of administrative agencies [including the USPTO] and related judicial review, establishes a scheme of "reasoned decisionmaking." Not only must an agency's decreed result be within the scope of its lawful authority, but the process by which it reaches that result must be logical and rational. Allentown Mack Sales and Service, Inc. v. National Labor Relations Bd., 522 U.S. 359, 374 (1998) (citation omitted).

This standard requires that the agency not only have reached a sound decision, but have *articulated the reasons for that decision*. The reviewing court is thus enabled to perform meaningful review within the strictures of the APA, for the court will have a basis on which to determine "whether the decision was based on the relevant factors and whether there has been a clear error of judgment." Citizens to Preserve Overton Park v. Volpe, 401 U.S. 402, 416 (1971) (emphasis added).

In re Lee, 61 USPQ2d 1430, 1433 (Fed. Cir. 2002).

[0010] Applicant submits that the Office has not articulated the reasons for its decision-making regarding each claim recitation in its entirety. Accordingly, Applicant requests that the Office withdraw finality and address each element and feature of each claim, and if the next action is not a notice of allowance, that such action be non-final.

**Deutscher Does Not Anticipate Claims 33-35, 37-40, 49-53 and 55-57**

[0011] Claims 33-35, 37-40, 49-53, and 55-57 stand rejected under 35 U.S.C. § 102(a) as allegedly being anticipated by Deutscher. Applicant respectfully traverses the rejection.

[0012] In accordance with 35 U.S.C. § 102, "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987); see also MPEP, § 2131. Furthermore, the elements disclosed in the single reference "must be arranged as in the claim under review." In re Bond, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990, internal citation omitted).

**Independent Claim 33**

[0013] Applicant submits that the Office has not shown that Deutscher anticipates this claim because Deutscher does not disclose each and every element and feature of this claim. Claim 33 recites the following:

In a media timeline exposed via an application programming interface and having a plurality of nodes, a method comprising:  
rendering a first media item referenced by a first node;  
receiving a call for a second node that references a second media item;  
creating the second node while rendering the first media item; and  
wherein the media timeline is configured for dynamic updating such that metadata included in at least one node specifies a collection of nodes to be modified when the at least one node is loaded.

**[0014]** Claim 33 recites in part, “[i]n a media timeline exposed via an application programming interface and having a plurality of nodes, a method comprising: ... creating [a] second node [that references a second media item] while rendering the first media item.”

**[0015]** Deutscher is directed to creating an interactive presentation employing multi-media components and describes a tool for human user interaction rather than “a media timeline exposed via an application programming interface ... having a plurality of nodes” as recited in the claim. Moreover, the cited paragraphs describe a user selecting

... a presentation template [that] specifies layout features and interactive functionality for an interactive presentation window which when rendered displays the presentation being authored. [A] presentation tool window is displayed to the user and it is populated with the selected template’s layout and functionality data [that] provides a graphic user interface to assist the user in tasks including specifying media files to be imported, modifying the layout and functionality data and entering scheduling information associated with the presentation. ... As the foregoing data is being entered, the presentation tool creates a presentation data file including all the layout and functionality data, as well as scheduling data associated with the presentation.

Deutscher, [0027].

**[0016]** Deutscher goes on to discuss a presentation package being built that “includes exported versions of the imported media components, and a presentation file which is executable by a viewer of the presentation and when executed renders the aforementioned presentation window for viewing the presentation. ... [T]he presentation file is created by incorporating the data contained in the presentation data file into the file associated with the selected template.” Deutscher, [0028].

[0017] Thus, it appears that Deutscher merely provides an interface for a user to enter files, modify their layout and functionality, schedule the files to be played back, and package them in an executable file rather than “[i]n a media timeline exposed via an application programming interface and having a plurality of nodes, a method comprising: ... creating the second node while rendering the first media item” as recited in the claim. Without conceding that the “presentation file” may appropriately be considered a “second node,” notably, only a presentation file is created, and that presentation file is not created “while rendering the first media item” as claimed. For at least this reason, claim 33 is allowable over Deutscher.

[0018] Additionally, claim 33 recites in part, “wherein the media timeline is configured for dynamic updating such that metadata included in at least one node specifies a collection of nodes to be modified when the at least one node is loaded.”

[0019] For convenience, selected portions from the description of this feature are reproduced below.

[00133] ... in an exemplary implementation ... events are provided by a node ... such that changes that occur to the media timeline ... may be communicated to nodes that may be affected by the changes.

[00134] Each of the nodes ... may generate events ... utilized to inform other nodes of the media timeline ... that may be affected by changes to the node and/or changes to children of that node. ... In this way, eventing may be utilized inform various nodes of the media timeline ... about dynamic changes to the timeline structure. Additionally, nodes of the media timeline ... may subscribe to events initiated by other nodes of the media timeline. [A n]ode ... may subscribe to receive events from [another] node [without being] a “parent” of the node.

[00137] Node Changing ... The node changing ... event is issued when metadata on a node of the media timeline ... is being changed. Node [X], for instance, may include metadata, .... Changes to the metadata may cause the node [X] to issue the node changing ... event .... Thus, the node changing ... event may be utilized to inform other nodes and/or

applications that utilize the node [X] that changes are being made to the node [X], and therefore respond according, such as to wait to render the node [X] until a node changed ... event is received.

[00138] Node Changed ... The node changed ... event is issued when metadata on a node of the media timeline ... has been changed. Continuing with the previously example, node [X] issued the node changing ... event such that other nodes and/or applications are informed that changes are being made to the node [X]. When the changes are complete, the node [X] may issue the node changed ... event to inform the applications and/or nodes that the changes have been completed. In this way, the node [X] may utilize the node changed ... event to inform that it is ready for rendering.

(Emphasis and paragraph formatting removed).

[0020] In contrast, Deutscher describes various sections of a manifest file. The manifest file is as introduced in Deutscher at paragraph 0212, which is reproduced below for convenience.

The structure of a LRN formatted "imsmanifest.xml" file is shown in FIG. 29. In general, the standard LRN manifest 2900 contains MetaData describing the presentation 2902 (such as Title or Description), organizations of the content 2904 (such as a Table of Contents) with a list of individual content items 2908, and a resources section 2906 having a list of individual resources 2910 (such as HTML files, graphics, or other content). Each of these sections of the manifest 2900 will now be described in more detail. In order to facilitate this explanation, an example imsmanifest.xml file listing has been provided in Appendix A. The various sections of this example file will be referred to in the description of that section.

Deutscher, [0212].

[0021] As shown in the excerpt, Deutscher describes a particular manifest file. Deutscher proceeds to discuss several sections and elements of the manifest file including a "MetaData section," a "<miftdata> Element," an "<extendedmetadata> Element," and a "<ui> Element," (Deutscher, [0213]-[0221]) as well as a "<media> Element" as part of a "Resources Section." Deutscher, [0224], [0229] and [0230].

**[0022]** However, no “dynamic updating” would occur in Deutscher because Deutscher merely describes a user entering files for packaging in an executable file, and that the user may modify the files’ layout and functionality before they are so packaged. The requirement that the files be modified by the user does not equate to dynamically updating a second media item while rendering a first media item.

**[0023]** Thus although Deutscher describes various sections, elements, and properties, Deutscher does not disclose a “media timeline ... configured for dynamic updating such that metadata included in at least one node specifies a collection of nodes to be modified when the at least one node is loaded” as recited in claim 33. For at least this additional reason, claim 33 is allowable over Deutscher.

**[0024]** Consequently, Deutscher does not disclose all of the elements and features of this claim. Accordingly, Applicant submits that Deutscher does not anticipate this claim, and respectfully requests that the rejection of this claim be withdrawn.

**Independent Claim 49**

**[0025]** Applicant submits that the Office has not shown that Deutscher anticipates this claim because Deutscher does not disclose each and every element and feature of this claim. Claim 49 recites the following:

In a media timeline exposed via an application programming interface (API), the media timeline having a plurality of nodes, two or more nodes each referencing respective media, a method comprising:

rendering a first node to output a referenced first said media;

during the rendering, changing one or more properties of a second node; and



initiating, by an event generator located on the second node, an event for communication to a parent node of the second node, wherein the event describes the changing.

**[0026]** However, Deutscher does not disclose “during the rendering, changing one or more properties of a second node” as recited in the claim. Paragraphs 0014-0016, consistent with the discussion of Deutscher above, describe a “presentation tool window [that] includes a presentation properties sector that is used to view and modify the layout appearance and functionality attributes of the selected template via a series of property grids that are accessibly by selecting the appropriate tab.” Deutscher, [0014]. “Upon selection of a new language, the user can enter the associated metadata in that language into the data grid and it will be **stored** in the presentation data file with an associated language key. This enables the playback viewer to display metadata in different languages based on the user’s language selection.” Deutscher, [0015] (emphasis added). “A player property grid is also accessible in the presentation properties sector. The player property grid allows the user to edit and view the details of the master track media file. ... Information in this property grid is **stored** in both the presentation data file and the media file upon building the project.” Deutscher, [0016] (emphasis added). Thus, as discussed above, Deutscher describes a tool for human user interaction, and the tool particularly allows the user to edit and **store** properties using a property grid.

**[0027]** Deutscher fails to disclose dynamic changes including changing a property of a second node while a first media item is being rendered at least because in Deutscher a user makes changes to properties and stores them prior to playback.

**[0028]** Accordingly, in Deutscher properties are changed before rendering in contrast with the claim, which recites “during the rendering, changing one or more properties of a second node.” For at least this reason, claim 49 is allowable over Deutscher.

**[0029]** Additionally, claim 49 recites in part, “initiating, by an event generator located on the second node, an event for communication to a parent node of the second node, wherein the event describes the changing [of the second node during rendering of the first node].”

**[0030]** Deutscher does not disclose “initiating, by an event generator located on the second node, an event for communication to a parent node of the second node, wherein the event describes the changing” as claimed. Deutscher at 0026 merely discusses a timeline editor that allows a user to move scheduled events, i.e., script commands, contents markers and transcription segment entries from the timeline interface. A user initiates moving the scheduled events as described in Deutscher. In contrast, as described with regard to Fig. 22 of the instant application, the claimed event communication is generated during dynamic changes to a media timeline.

**[0031]** Without conceding that the statement from the Office equates to what is claimed, Applicant respectfully asserts that Deutscher does not disclose “changes to an event on the timeline updates others of 0026” as stated by the Office. Deutscher has not been shown to disclose updating one event in response to a change in another event as apparently implied by the Office much less the claimed “initiating, by an event generator located on the second node, an event for communication to a parent node of the second node, wherein the event describes the changing.” Moreover, Applicant respectfully notes that no “application programming interface” (API) is presented in

Deutscher. For at least these additional reasons, as well as reasons similar to those discussed regarding claim 33, above, claim 49 is allowable over Deutscher.

**[0032]** Consequently, Deutscher does not disclose all of the elements and features of this claim. Accordingly, Applicant submits that Deutscher does not anticipate this claim, and respectfully requests that the rejection of this claim be withdrawn.

*Dependent Claims 34, 35, 37-40, 50-57, and 89*

**[0033]** Claims 34, 35, 37-40, 50-57, and 89 each ultimately depend from one of independent claims 33 or 49. As discussed above, independent claims 33 and 49 are not anticipated by the cited document, and are therefore asserted allowable over the cited document. Therefore, claims 34, 35, 37-40, 50-57, and 89 are also asserted allowable over the cited document of record for at least their dependency from an allowable base claim. In addition, while the Office cites Lamkin as additional reference in stating a rejection of some of these dependent claims, without conceding that Lamkin qualifies as a prior art reference, this additional reference fails to remedy the deficiencies noted above in the rejection of these base claims. These claims may also be allowable for the additional features that each recites.

**[0034]** For example, claim 89, which depends from claim 33, recites “a group of node types comprising ... a sequence node that includes metadata that describes a rendering order of a plurality of leaf nodes to the sequence node; and a parallel node that includes metadata specifying a plurality of leaf nodes that are rendered simultaneously.” Notably, the claim also recites that “a leaf node that directly maps to media to be rendered and output, the leaf node including metadata that describes how to retrieve the media.” Applicant respectfully asserts that Deutscher does not disclose each

element and feature of claim 89. Figure 23 of Deutscher illustrates the “visual timeline editor” discussed above with respect to claim 33.

[0035] The following items are presented in the drawing: timeline 2300, elapsed time ruler 2302, resolution controls (e.g., zoom) 2304 and 2306, time code designation 2308, three event scheduling bands: script command event band 2310, content marker band 2312 and transcription segment band 2314, script command icon 2316, content marker icon 2318, transcription segment starting point icon 2320, vertical bar representing elapsed presentation time 2322, and scroll bar 2324. See Deutscher, [0175]-[0180]. Figure 23 is reproduced below for convenience.

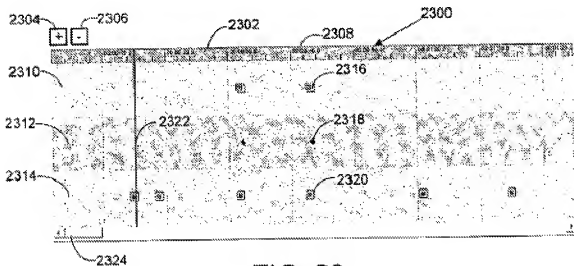


FIG. 23

[0036] Succinctly, for all that Deutscher describes, it does not disclose, teach or suggest each of the recited group of node types including “a root node that specifies a starting point for rendering the media timeline, the root node including metadata that describes how rendering is to be initiated; a leaf node that directly maps to media to be rendered and output, the leaf node including metadata that describes how to retrieve

the media; a sequence node that includes metadata that describes a rendering order of a plurality of leaf nodes to the sequence node; and a parallel node that includes metadata specifying a plurality of leaf nodes that are rendered simultaneously.” Consequently, Deutscher does not disclose all of the elements and features of this claim. Accordingly, Applicant submits that Deutscher does not anticipate this claim, nor does Deutscher render the claim obvious. Therefore, Applicant respectfully requests that the rejection of this claim be withdrawn.

**Claims 1-2, 4-5, 7-9, 11-18, 20-26, 28, 30-32, 41, 44-45, 47-48, 54, 58-62, 64-68, 70-79, 82-87 and 89-90 Are Non-Obvious Over Deutscher in view of Lamkin**

**[0037]** Claims 1-2, 4-5, 7-9, 11-18, 20-26, 28, 30-32, 41, 44-45, 47-48, 54, 58-62, 64-68, 70-79, 82-87 and 89-90 stand rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Deutscher in view of Lamkin. Applicant respectfully traverses the rejection of these claims and asks the Examiner to withdraw the rejection of these claims. In light of the discussion presented herein and the evidence of record, Applicant submits that these rejections are moot.

**Independent Claim 1**

**[0038]** In light of Lamkin not having been shown to qualify as a prior art reference, Applicant asserts that no reference or combination of references has been shown to disclose, teach, or suggest all of the elements and features of this claim. Accordingly, Applicant asks the Examiner to withdraw the rejection of this claim.

Independent Claims 15, 21, 41, 58, 66, 76, 77, and 84

**[0039]** Applicant submits that each of these independent claims recite at least one similar element to those recited in claims 1, 15, 21, 41, 58, 66, 76, 77, and 84 for which the Office Action relies on Lamkin in its rejections. In light of Lamkin not having been shown to qualify as a prior art reference, Applicant asserts that no reference or combination of references has been shown to disclose, teach, or suggest all of the elements and features of these claims. Accordingly, Applicant asks the Examiner to withdraw the rejections of these claims.

Dependent Claims 2, 4, 5, 7, 9, 11-14, 16-18, 20, 22-26, 28, 30-32, 44, 45, 47, 48, 54, 59-62, 64, 65, 67, 68, 70-75, 78, 79, 82, 83, 85-87, 89, and 90

**[0040]** Claims 2, 4, 5, 7, 9, 11-14, 16-18, 20, 22-26, 28, 30-32, 44, 45, 47, 48, 54, 59-62, 64, 65, 67, 68, 70-75, 78, 79, 82, 83, 85-87, 89, and 90 each ultimately depend from one of independent claims 1, 15, 21, 33, 41, 49, 58, 66, 77, or 84. As discussed above, independent claims 1, 15, 21, 33, 41, 49, 58, 66, 77, and 84 are asserted allowable over the cited documents. Therefore, claims 2, 4, 5, 7, 9, 11-14, 16-18, 20, 22-26, 28, 30-32, 44, 45, 47, 48, 54, 59-62, 64, 65, 67, 68, 70-75, 78, 79, 82, 83, 85-87, 89, and 90 are also asserted allowable over the cited documents of record for at least their dependency from an allowable base claim. These claims may also be allowable for the additional features that each recites. Applicant respectfully requests that the Examiner withdraw the rejection of each dependent claim where its base claim is allowable.

## **Conclusion**

[0041] For at least the foregoing reasons, all pending claims are in condition for allowance. Applicant respectfully requests reconsideration and prompt issuance of the application.

[0042] If any issues remain that would prevent allowance of this application,  
**Applicant requests that the Examiner contact the undersigned representative before issuing a subsequent Action.**

Respectfully Submitted,

Lee & Hayes, PLLC  
Representatives for Applicant

By: /Bea Koempel-Thomas 58213/  
Beatrice L. Koempel-Thomas  
([bea@leehayes.com](mailto:bea@leehayes.com); 509-944-4759)  
Registration No. 58213

Dated: 01/19/2010

Kayla D. Brant  
([kayla@leehayes.com](mailto:kayla@leehayes.com); 509-944-4742)  
Registration No. 46,576